

## Forum To Highlight Launch of Prison Reform Campaign

Truth in sentencing, mandatory minimums, the crack/cocaine sentencing disparity, and prison privatization have exacerbated inhumane and dangerous conditions in prisons nationwide. The ACLU of Arizona receives hundreds of complaints every year from people in jails and prisons across the state, as well as their family members, documenting a systemic denial of basic medical care and mental health services.

The need to reform Arizona's bloated, inefficient and unjust prison system is long overdue. The ACLU of Arizona works regularly in the courts and at the legislature to protect everyone's civil rights and liberties. This year, we are ramping up our efforts to ensure humane treatment for people incarcerated in Arizona and promoting laws and policies that provide fairness in our criminal justice system. We're developing a campaign for the public that will include an interactive website highlighting the experiences of those held in Arizona prisons with videos, personal narratives, and other educational materials. Visit [www.acluaz.org](http://www.acluaz.org) to be a part of the campaign and join us March 22, 2012, for a public forum with legal and medical experts, community advocates and formerly incarcerated people who will shed light on the brutal reality of medical and mental healthcare inside Arizona prisons.

**Forum Details:**  
**March 22, 2012**  
**6:30 p.m. to 8:00 p.m.**  
**Maryvale Community Center Auditorium**  
**4420 N. 51st Ave.**  
**Phoenix, AZ 85031**

For details and to RSVP, visit the ACLU of Arizona event calendar: [www.acluaz.org/calendar](http://www.acluaz.org/calendar).

### New Member Open House

Are you new to the ACLU? Have you been a member for years, but want to meet other ACLU members in your community? Come to our New Member Open House on Saturday, March 24th, 2 p.m. - 4 p.m. in Phoenix. Meet other members, ACLU board members and staff. For additional details and to RSVP, email [RSVP@acluaz.org](mailto:RSVP@acluaz.org) or call Addy at 602-773-6015.

## Attacks on public schools are attacks on civil liberties

By Victoria Lopez, Program Director



Over the past year, Arizona has once again been propelled into a national debate about discriminatory laws intended to target Latinos. This time, however, instead of the police checking "papers," we are seeing an unprecedented attack on academic freedom by banning public school teachers from teaching ethnic studies and, more specifically, Mexican-American studies (MAS).

The ACLU of Arizona is very concerned about the implications of the anti-ethnic studies law for all students in Arizona public schools and for fundamental First Amendment rights that allow us to read, speak and think freely regardless of race, ethnicity, sex, religion or national origin.

The law in question, Arizona Revised Statutes §15-112, which went into effect on December 31, 2010, prohibits schools from teaching subjects that promote "the overthrow of the United States government, promote resentment toward a race or class of people, are designed primarily for pupils of a particular ethnic race" or "advocate ethnic solidarity instead of the treatment of pupils as individuals." While the law does not specifically cite the MAS program as one of the prohibited courses, current Superintendent of Public Instruction John Huppenthal and former Superintendent of Public Instruction Tom Horne, now Arizona Attorney General, have long been outspoken critics of the Latino studies program.

Faced with the threat of losing millions of dollars in public funds for the district unless it ended or modified the program, the Tucson Unified School District (TUSD) board voted in January to end the program despite evidence demonstrating the program's successes and an audit commissioned by the Arizona Department of Education (ADE) finding "no observable evidence [...] to suggest that any classroom within TUSD is in direct violation of the law."

In its intention and implementation, the law is being used to target and censor classroom discussion related to Mexican American history and thereby chills fundamental speech rights of students and teachers. On the ground, these decisions have created massive disruptions for TUSD students and educators. Most recently, school officials decided to remove books from the district's curriculum and physically pull books from classroom shelves, effectively banning the materials solely because of the messages they contain.

The ACLU of Arizona recently signed a letter with over 30 local and national organizations to oppose the removal of books used in the MAS classrooms. We have also filed records requests demanding access to all of the information used by Huppenthal in making the determination that the MAS program is out of compliance with state law as well as policies regarding the removal of books from public school classrooms and libraries. In the coming months, we will partner with community groups to host ethnic studies teach-ins and banned book readings. Please check our website ([www.acluaz.org/calendar](http://www.acluaz.org/calendar)) for more information about these events and activities to defend the First Amendment and support tolerance in our public schools.

# Civil Liberties in Arizona

Volume 41 Issue 1

★ Standing Up for Freedom ★

## Arpaio Set to Stand Trial in ACLU Lawsuit Challenging Racial Profiling

For Dan Magos and the dozens of other ACLU clients who are suing Maricopa County Sheriff Joe Arpaio for pulling them over because of the color of their skin, the Department of Justice's report that the sheriff was violating the civil rights of Latinos came as no surprise.

"It's great to see the federal government finally take some action, but they confirmed what we've known all along: that Arpaio is an out-of-control sheriff

who is perpetrating some of the worst civil rights abuses our country has ever seen," said Magos, 67, who was pulled over by a Maricopa County Sheriff's deputy in 2009 while driving his truck. "Now they need to take it a step farther and actually do something to protect Latinos from even more abuse."



The ACLU has been working to protect Latinos in Maricopa County long before December 2011, when the DOJ issued its scathing report on the Maricopa County Sheriff's Office (MCSO). In 2008, we filed a civil rights lawsuit challenging racial profiling practices by MCSO. In fact, the Department of Justice's report - which was based on 400 interviews including many with ACLU clients - confirmed what we previously submitted as evidence for the litigation. For example, we uncovered hundreds of emails over the past several years confirming that Arpaio actually encouraged and condoned racial profiling and took action to "go after illegals" after receiving racially-charged citizen complaints against "dark-skinned Hispanics and people speaking Spanish."

Our experts provided evidence showing that Latinos like Magos were stopped at significantly higher rates than white drivers, and then



**Above: Cecillia Wang, Director of the ACLU Immigrants' Rights Project, addresses the media during a press conference after a federal court hearing on December 22, 2011. The ACLU claims that MCSO actions are motivated by racial bias, and result in racially discriminatory treatment. (L-R) Annie Lai, Clinical Teaching Fellow at Yale Law School; Dan Pochoda, ACLU-AZ Legal Director; Andrew Byrnes, of the pro bono law firm of Covington & Burling; Ms. Wang; Stanley Young, of Covington & Burling; and Alessandra Soler Meetze, Executive Director of the ACLU-AZ. Photo Courtesy of Barriozona Magazine.**

**Left: Alessandra Soler Meetze, Executive Director of the ACLU-AZ, answers reporters' questions during a press conference on December 22, 2011. U.S. District Court Judge Murray Snow ordered that the case should proceed as a class action and noted that the plaintiffs have already made a strong showing of intentional race discrimination. Photo courtesy of Willie Stark, ONE/MILLION.**

**Right: Tim Casey, Arpaio's lead attorney for the case, defends the Sheriff's actions during a press conference. Photo courtesy of Willie Stark, ONE/MILLION.**

ticketed for offenses for which whites were not. Although Magos, who is a U.S. citizen, was never ticketed for any offense, he was humiliated and recalls "feeling defenseless during the incident, so much so that I was depressed for days after it happened and became disillusioned with the justice system," he added.

But after four years of litigation that included sanctions against the Sheriff for deliberately destroying police records related to traffic stops, we're seeing progress in our efforts to hold Sheriff Arpaio accountable. One week after the DOJ report was released, a federal court judge issued a ruling confirming - once again - what the community has known all along: that MCSO's practice of stopping and arresting Latinos based only on their perceived immigration status and without any evidence of criminal activity violates the U.S. Constitution. The judge ordered Arpaio to immediately halt those detentions and then paved the way for a separate trial - scheduled for later this year - on race discrimination.

"For far too long, Sheriff Arpaio has been operating with total impunity, abusing his power and victimizing Latinos to advance a political agenda that has actually jeopardized public safety and cost county taxpayers millions of dollars," said ACLU of Arizona Executive Director Alessandra Soler Meetze. "We look forward to a final resolution of these issues at trial where the Sheriff's true colors will be fully exposed in a court of law."



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# Update From the Desk of Legal Director Dan Pochoda



## Safeguarding Reproductive Rights

In a case that challenges efforts to defund organizations that provide critical health and services to women, the ACLU helped block the implementation of HB 2384, which prevents any organization that “promotes ...or provides referrals for abortions” from participating in the state’s Working Poor Tax Credit program. On December 22, 2011, Judge Roslyn Silver granted our request for a preliminary injunction, agreeing with our argument that requiring organizations to “refrain from fully-protected speech regarding abortion” in order to qualify for the tax credit imposed an unconstitutional condition in violation of the First Amendment. Although the case has been resolved in our favor, the bill has resurfaced during this legislative session and lawmakers are expected to try to tweak the bill to preserve as many of its anti-choice provisions as possible.

## Protecting Medical Marijuana Patients

The State of Arizona filed a lawsuit in an attempt to thwart the will of the voters and invalidate Prop. 203, a law Arizona voters passed in 2010 that allows terminally and seriously ill patients to use medical marijuana with a doctor’s recommendation. This bogus litigation sought a federal court declaration that the new state law conflicted with and was preempted by existing federal laws, a complete turnabout from the strong “state’s rights” position adopted by Arizona in seeking to implement Arizona’s notorious SB 1070. On January 4, 2012, Judge Susan Bolton agreed with our position that the state failed to establish that there is “a genuine threat of imminent prosecution” of any employee. The ACLU succeeded in getting the lawsuit dismissed and the state will not re-file, thus enabling medical marijuana to reach those in need.

## Challenging Racial Profiling

Racial profiling victims, represented by the ACLU and pro bono attorneys from the firm of Covington and Burling, obtained a critical ruling on December 23, 2011, in our lawsuit against Maricopa County Sheriff Joe Arpaio and the Maricopa County Sheriff’s Office. Federal Judge Murray Snow put a halt to the systematic practice by MCSO of stopping and arresting Latinos based only on suspicion of unlawful presence in the United States and without any evidence of criminal activity, ruling that such detentions violate constitutional guarantees against unreasonable search and seizure. He also granted our request for class certification, which means that all Latinos who have been or will be stopped, detained, questioned or searched by MCSO while driving or riding in a vehicle in Maricopa County will have a legal remedy as part of the litigation. Preparations are being made for the trial in this matter.

## What One Letter Can Do

On November 20, 2010, Demouriee Franklin, of Knoxville, Tennessee, was detained and interrogated by Maricopa County Sheriff’s officials after he was stopped at a Phoenix Greyhound station and found to be carrying \$6,310 in cash. Although deputies found no weapons or narcotics in his possession and he was never arrested or charged with any crime, they seized his money – his entire life savings – and sent him on his way. Demouriee was carrying the cash because he was moving to San Diego to join the Air Force. He earned some of the money working at a Tennessee Rubbermaid factory; most of it came from gifts he received from family members after his graduation. Demouriee called our office and we followed up by sending a letter to the Maricopa County Attorney’s Office, asking county officials to return his cash and arguing that it was seized unlawfully. Along with our demand letter, we sent the county attorney copies of Demouriee’s tax returns, W-2s, pay stubs and bank statements to prove the money was obtained lawfully. We also sent signed affidavits from his mother, sisters, other family members and family friends stating they had given Demouriee money for his graduation. Those items were likely as persuasive as the official records. Although the county ultimately agreed to return his money, this case sheds light on the abuse of civil asset forfeiture laws and the racial profiling that accompanies it. Clearly, deputies had no reason to stop Demouriee, who is black, and seize his cash, but because Arizona’s forfeiture laws give broad discretion to authorities to stop people and seize property without probable cause, he became one of many victims of this unconstitutional, but common, practice.



Above: Stanley Young, of the pro bono law firm of Covington & Burling, with ACLU-AZ Executive Director Alessandra Soler Meetze, addresses reporters outside the Phoenix federal courthouse after a hearing on December 22, 2011. Photo courtesy of Barriozone Magazine.

Right: Coalition partners and members of the community organized a music-filled vigil at PCJ on December 10, 2011, International Human Rights Day. Vigils are held throughout the year. For upcoming dates, visit the ACLU-AZ website at [www.acluaz.org/calendar](http://www.acluaz.org/calendar). Photo courtesy of Alonso Parra, [www.lamplleft.com](http://www.lamplleft.com).

# 2012 Legislative Update

By Anjali Abraham, Public Policy Director



Another year, another legislative session in Arizona. The Legislature decided to celebrate our centennial year with some of the most puzzling, anti-liberty legislation our state has seen in decades. And while the Legislature’s decision to abandon its extreme anti-immigrant bent for now brought us great relief, the fate of our civil liberties remains in serious danger. Nonetheless, there has been real cause for hope.

After a relatively quiet first few weeks, the Arizona Legislature immediately trained its sights on women’s rights and reproductive freedom. The most egregious effort came in the form of HB 2838, a sweeping anti-choice bill designed to intimidate, threaten, and shame women from making their own decisions about their own medical care and doctors from providing such care openly and honestly. In the fight to protect reproductive freedom from anti-choice bias, the ACLU actually scored an impressive early victory. Working with allies and other interested parties, the ACLU was able to effectively kill HB 2838 by mid-February. However, the bill’s supporters managed to resurrect the bill via a procedural maneuver that let them transfer the contents of HB 2838 to another bill. HB 2036, the successor to HB 2838, is now making its way through the Senate. Another bill, HB 2625, would allow any employer to deny coverage of contraception for employees based on the employer’s religious beliefs. Unfortunately, this is just a sample of the anti-choice, anti-reproductive-freedom bills introduced in this year’s legislative session.

The principle of separation of church and state is also under fire. HB 2563 allows public schools to offer elective Bible study courses. While neutral discussion of religion in public schools is perfectly legal, several aspects of HB 2563 raise the specter of promotion of religion rather than the objective study of religion. SB 1365, meanwhile, would prevent the state from disciplining licensed professionals who engage in virtually any conduct on the basis of their sincerely held religious beliefs.

Free speech has not fared much better. In an inexplicably heavy-handed attempt to ensure that public school teachers do not curse in the classroom, the Senate is attempting to hold teachers to FCC standards regarding obscenity and profanity. And as a postscript to the ethnic studies debacle in Tucson, the Senate is also considering a bill that would widely ban partisan discussion in public schools.

Privacy issues have brought more mixed results. The sponsor of a bill that would allow law enforcement to obtain a cell phone customer’s call location from the cell phone company in emergency situations has agreed to work with the ACLU to address privacy issues in non-emergency situations. And an ACLU-supported resolution that will allow voters to decide on the future of photo radar is inching along steadily.

An even brighter spot is the continuing success of the one bill that the ACLU affirmatively pursued this session. SB 1184 restricts the use of physical restraints on pregnant inmates during transportation for delivery, labor and delivery, and postpartum recovery. The bill has enjoyed tremendous bipartisan support. SB 1184 is working its way through the House and may just make it to Governor Brewer’s desk. The progress we have seen thus far with SB 1184 is in itself a major achievement. But the governor’s signature on the bill would be a richly rewarding end to two of the most challenging legislative years the ACLU of Arizona has ever seen.

## ACLU Launches Campaign to Get ICE Out of Pinal County Jail

On January 20th, the ACLU of Arizona and its coalition partners in the Arizona Detention Working Group launched a public education campaign to ramp up community pressure on Immigration and Customs Enforcement (ICE) to end its contract with Pinal County Jail (PCJ), where we have documented egregious human and civil rights abuses. We kicked off the “ICE out of PCJ” campaign with a press conference outside of the ICE office in Phoenix where we criticized the federal government for failing to discontinue the use of jail-like facilities and reform the immigration detention system as promised more than two years ago.



The campaign launch came on the heels of earlier efforts last winter to raise awareness about the thousands of immigrants who spent their holidays locked up in immigration detention facilities in Florence and Eloy. ICE maintains five detention facilities in Florence and Eloy, where more than 3,000 immigrants are detained on any given day. On December 10th, International Human Rights Day, ACLU of Arizona members joined allies from across the Valley to reach out to the men spending their holidays detained at PCJ. Attendees wrote heartfelt messages of compassion, solidarity, and hope on postcards addressed to detainees at PCJ as they listened to community members share personal stories about how immigration detention has impacted their lives and families. All of the postcards included the message, “please share this with your unit,” so that everyone detained at PCJ would receive the message of hope. After the postcards were written, attendees drove to Florence to meet allies from Tucson in the parking lot outside of PCJ for a vigil. Nearly 100 supporters stood shoulder to shoulder reflecting on the injustice of mandatory immigrant detention just yards from the walls of PCJ that separate families.

Volunteer videographer Alonso Parra assembled a short video of the event at PCJ. To see the video, visit the resources page on the ACLU of Arizona website at [www.acluaz.org/resources/publications](http://www.acluaz.org/resources/publications) under the Immigrants’ Rights section.

